

**OF THE CITY COUNCIL
OF GRAND FORKS, NORTH DAKOTA
1997**

PROCEEDINGS

OF THE CITY

Tuesday, July 1,

The city council of the city of Grand Forks, North Dakota met in special session in the council chambers in City Hall on Tuesday, July 1, 1997 at the hour of 4:00 p.m. with Mayor Owens presiding, pursuant to call by Mayor Owens which was served on all members of the council on June 30, 1997: Document No. 7319 - Notice.

Present at roll call were Council Members Beach, Hamerlik, Hanson, Glassheim, Carpenter, Sande, Klave, Beyer, Babinchak, Bakken, Hafner, Hagness - 12; absent: none; 1 seat vacant.

**GIVE PRELIMINARY APPROVAL TO VOLUNTARY
ACQUISITION PROGRAM**

John O'Leary, director of Urban Development, reported that copies of the Voluntary Acquisition Program of Residences dated June 26, 1997, had been presented to the city council. He also noted that staff is putting together an abbreviated copy of the program. He reported that this program would cover Phase I and Phase II of the voluntary acquisition process which involves all homeowners that are in the 100-year floodplain in the city of Grand Forks which sustained more than 50% damage to their homes. He reported that there are several policy decisions dealing with processes for voluntary acquisition but highlight of the issue is whether or not to provide incentives to homeowners to reinvest in property in Grand Forks; that there are tens of millions of dollars taken off the tax rolls in this acquisition process, that there are a number of ways to provide incentives. He stated that in the first round there are about 290 homes and in second round probably that many more, with about 130 homes which are not in the flood plain and which have incurred 50% damage or more, and that round not included in this document, that this document only includes round 1 and round 2 which is 50% or more damage and in the flood plain. He stated that there will be an opportunity in the coming weeks to discuss other incentives, if any, that they may want to make available to homeowners who do not fall in this category and they will be working with the council members on that particular issue.

He reported that one of the priorities they may want to discuss and make a determination on is whether or not to provide a 10% bonus to homeowners who voluntarily sell their property, that it is the recommendation of the Tri-chairs that there are other ways to provide that incentive, if they do provide an incentive to reinvest in real estate in the city, one way to do that would be to do a maximum and minimum of incentives (ceiling of \$10,000 and perhaps a floor), and other option is to provide other kinds of incentives (reasonably priced or free lots, or incentives for infrastructure), that those incentives do same thing and perhaps on a more equitable basis than a percentage of the sale price.

Council Member Hamerlik stated that while this document is specifically for those in the 100-year flood plain who have 50% or more damage, there is another group mentioned, ie., "...other areas, properties or structures as designated by the city council..." and Mr. O'Leary alluded that there may be other phases along the way so it doesn't terminate with just those two phases and would be up to the council whether to include others in the future. Mr. O'Leary reported that the last paragraph of the document reads, "...the City of Grand Forks reserves the right to amend or terminate this program, or any part, condition or term hereof at its discretion...", and would allow the council to change the program.

Council Member Hanson asked if staff had calculated what additional monies would be available for a Phase 3 by saving the 10%; Mr. O'Leary stated they were using an estimate of approx. \$4 million, but is dependent upon negotiated price as determined between seller and City.

Council Member Hafner suggested separating the incentives from the acquisition, because some incentives have not been totally developed, don't know ramifications of offering 10% to the first two phases and not being able to do later, and suggested splitting it into two parts. Council Member Hagness stated his concern was to get to as many people that were affected and devastated by the flood as possible as quickly as can, and asked if they could go into other phases, that they have established that those in Riverside, Lincoln Parks will be bought out but others still in limbo - Vail Circle, Crescent Drive, 24th, Chestnut Street, and people in north end, etc., and if spend money upfront, how would that affect people on the end, should know before making decision on Phase I. Mr. O'Leary stated that an advance from the State doesn't affect this program, the \$50 million obligated to deal with the City of Grand Forks flood issues has been approved and City submitted a generalized program of work, so probably not an issue on cash flow as State provided some upfront funds to start with this process because Department of Housing and Urban Development has been very responsive in freeing up this money. He stated that the issue is more legal issues, work started to update abstracts, etc. and becomes broader issue in how soon homeowners will receive funds, that as soon as they determine what final program should look like, they will start sending out offers to the property owners offering what City believes property is worth, and if there is a difference of opinion as to what those numbers should be, then the negotiation process will start.

COUNCIL MEMBER POLOVITZ REPORTED PRESENT

He stated that once an agreement reached, sales agreement drafted and a check issued, is three-day process. He stated that before council goes into additional phases should determine what other needs are before them, because \$45 million out of the first \$50 million release of funds is being spent on housing which is important issue, need for tax base and for people to get on with their lives; that at some point Mr. Vein is going to present listing of capital improvements for infrastructure. He stated they also need to discuss what going to do about reclaiming central business district and economic development issues, and need to deal with all issues.

There was some discussion relating to incentives, possibility of funding incentives (lots,

infrastructure) through another funding source and to use CDBG funds to acquire as many houses as possible. Mr. O'Leary reported that there was a staff suggestion that it may be prudent to look at incentives through a voucher system, that they need to make decision before acquisition process starts whether to provide a 10% bonus, but if deferred that decision and provided the incentive by providing infrastructure to the lot, would be able to make that decision at a later date and give opportunity to look at other needs.

Mr. O'Leary stated that the question before the council is whether they want to provide a cash incentive, if so how much, or vouchers, or to provide incentives through development of new neighborhoods and providing of lots and infrastructure, and unlikely have funds to provide all those incentives; and issues before council are what puts homeowners back on their feet, returns equity in their home, what encourages them to reinvest in the city's tax base, and how best make those things happen.

It was moved by Council Member Hafner and seconded by Council Member Hanson that we separate incentives from the acquisition.

After some discussion and upon roll call vote, the following voted "aye": Council Members Hanson, Babinchak, Bakken, Hafner, Hagness - 5; voting "nay": Council Members Beach, Polovitz, Hamerlik, Glassheim, Carpenter, Sande, Klave, Beyer - 8. Mayor Owens declared the motion defeated.

Mr. Swanson reported that the City received waiver on low and moderate income requirements from HUD under CDBG funds of from 70 to 50%, if paid 10% incentive across the board in Phase I are probably going to be required to do in multiple phases, and probably wouldn't be able to comply with the 50% low and moderate income requirement on the CDBG funds; that Mr. O'Leary is trying to modify that incentive to fall within the CDBG funds under the 50% low and moderate income requirement that we now have.

After further discussion it was moved by Council Member Glassheim and seconded by Council Member Hanson that we delay consideration of the incentives and staff return within a week to a scheduled meeting of council with proposal for adoption of an incentive program. Carried 13 votes affirmative.

The council proceeded to review the program draft page by page.

It was moved by Council Members Sande and Beyer to find another name for this program (Voluntary Acquisition Program of Residences - VAPOR). It was then suggested to leave VAPOR off the name. Council Members Sande and Beyer withdrew their motion.

Council Member Glassheim moved to amend the program (page 5) to include policy that City was willing instead of buying house, to provide a lot and foundation for the property owner to move his house up to the amount that he would have received if bought out.

There was some discussion re. City's liability; Mr. Swanson stated that if a property owner wishes to retain the structure, he can sell the lot only, and still be eligible for relocation, which is allowed under the proposal. The motion died for lack of a second.

Council Member Glassheim reviewed matter of salvage (on page 8) that states that City may allow salvage on a case by case basis but the value of replacement of the salvage will be deducted from the purchase price. It was moved by Council Member Beyer that under this section that the homeowner be allowed to salvage up to 5% of the purchase price. Council Member Klave seconded the motion.

After further discussion, Council Members Beyer and Klave withdrew their motion; and it was then moved by Council Members Polovitz and Hamerlik that the City may allow salvage by the seller on a case by case basis but the value of replacement of the salvage be deducted from the purchase price. Council Member Beach stated that the City should retain right to establish value, and would hope that would be implied in the motion. Upon call for the question on the motion and upon voice vote, the motion carried 13 votes affirmative.

It was moved by Council Glassheim and seconded by Council Member Hafner that item 9, use of purchase price, on page 7 be deleted in its entirety. Carried 13 votes affirmative.

Council Member Glassheim reviewed item 10 on page 8 relating to flood insurance credit; Mr. Swanson stated that the language reflects FEMA provisions under their guidelines, and only reason property owner wouldn't receive it would be if premium paid with-in a period of time that coverage not effective for 1997 flood. It was moved by Council Member Glassheim to request staff to redraft and clarify the paragraph on flood insurance credit; Council Member Beach seconded the motion. Carried 13 votes affirmative.

Council Member Beyer presented the matter of seller repurchasing his house at a certain percentage, that City wouldn't have liability of moving the house, that if homeowner wants to repurchase his house for 10% by date certain or relinquish, they would have responsibility of moving the house along with any problems in moving the house, any expenses incurred in moving, they would be responsible for acquiring their lot and foundation, and so moved; Council Member Hanson seconded the motion. There was some discussion re. requiring house to be moved as City is buying both the house and the lot and could require the house to be moved; whether to require bids on the property. After further discussion Council Members Beyer and Hanson withdrew their motion.

Council Member Beyer then moved that the houses purchased by the City can be sold to the highest bidder on sealed bid basis with a minimum bid; Council Member Hafner seconded the motion.

Ray Slominski, 630 Maple Avenue, asked if the homeowner could take bids on his house before the City buyout and sell the house. Mr. Swanson reported that on page 5 of the proposal on what is to be acquired, it states that the City's acquisition of residential property under this program will typically involve acquisition of the lot and all structures, however, upon demonstration of unique circumstances the City may acquire the lot only, and in such case the owner is responsible for removal of the structure; and whether they want to relocate the house or to sell the house for salvage or relocation, this program will

allow that, and property owner would only be paid for market value of the lot. It was also noted that the house would have to be moved by a date certain as negotiated in the purchase.

Upon call for the question the motion carried 13 votes affirmative.

There some discussion re. composition of special committee to sit on appeals panel. Doug Christensen questioned whether there would be input by citizens.

Mr. Christensen stated that he was concerned re. what he had heard - that this was a living document, a working draft, for all acquisition, and questioned whether the City was working on a document that was going to affect future acquisitions in the event we choose to do a diking system in this city. Mr. Swanson stated that the application that went in for 404 was a specific application and this was sent in as a draft form, it was not intended to be the actual acquisition of the first 294 properties, this is intended to be an overall guide for the policies on acquiring property, whether phase 1 or phase 7, that it is a dynamic document that will have to change depending on whatever the circumstances are. Mr. Christensen stated that he understood that the first acquisition is for the Riverside, Central and Lincoln Park homes, now when reading this document sees that property structures located in the 100-year flood plain suffering 50% or more damage, that he understands that the City has \$10-14 million FEMA funds which is administered under 404 of the Stafford Act and \$25 million CDBG funds which has certain ramifications under HUD, and there is sentence that really concerns him, ie., "...other areas, property or structures as designated by the city council.." and assuming they get into 4th, 5th, etc. stages and assuming those stages are going to be properties acquired once they determine where the levees go, and they should clarify; and questioned whether they were trying to design a document that would govern all future acquisitions once that line is set in stone. Mr. Swanson stated this document not dependent upon any placement of a dike, diversion system, levee, of a floodwall or any other type of flood protection system, that number 3 is to allow flexibility for the council, to designate an area such as Vail Circle that is not in the 100-year flood plain and may not qualify under the other two areas but would allow the flexibility for the council to use a voluntary acquisition program in that area; that if the council were intending to use this program to acquire property specifically for location of dike is that you will have other benefits required to be paid, that he disagrees with Mr. Christensen in conclusion that all acquisition of property required relocation benefits to be paid. Mr. Christensen stated that his only concern was that there be no misunderstanding that this document is not going to govern the next phase, once they get into the placement of that dike line and what happens in the city, that is a completely different document. Mr. Swanson stated that is why he stated you have to change with the circumstances, and this is not intended to be set in stone and that the last provision in the program sets forth the provisions for amendment of the plan. Mr. Swanson stated that now there is no plan, there is no program, there is no project for a flood control system whatsoever. Mr. Christensen stated that there is one that's going to be proposed and contemplated sometime on or after 30 days from meeting last Thursday.

COUNCIL MEMBER BABINCHAK EXCUSED

Council Member Hagness called for point of order. Mr. Christensen stated that there has been clarification by Mr. Swanson, and that as for the appeal process, his question was to whom, establish that, and that he doesn't believe they should have a four person body on the second stage of appeal because that's potential for deadlock and need to go with three or five, suggested a member of the city council, certified appraiser, and a person from the Tri-chairs. He also suggested they expand time for property owners to object to offer, suggested 14 days, to allow time to present additional information.

It was moved by Council Member Glassheim and seconded by Council Member Beach that on page 9 the second paragraph be replaced as follows for the second stage appeals panel, that it consist of two outside non-City employees knowledgeable in residential real estate values and two city council people appointed by the mayor.

Mr. Swanson stated that if they couldn't reach agreement on the purchase price, don't have voluntary buyer nor voluntary seller, but could implement a third stage and bring to council or committee of council, but this is not a forced acquisition. He stated that there are going to be some people who will partici-pate and some who will not and that's their prerogative, however, if issue is whether the offer is fair, the council may consider changing the form of appeal or adding another level but are not setting up a determination board to make a final decision re. value of the property.

Upon call for the question and upon voice vote, the motion carried 11 votes affirmative.

It was then moved by Council Member Beyer and seconded by Council Member Hanson that there be a third stage of appeal if there is a gridlock and in case the second appeal cannot be decided, that their ultimate appeal will be to the city council.

Doug Christensen suggested they go back to a three-person basis, city official, city council member and person trained in real estate.

Council Members Hagness and Beyer called for the question; and upon voice vote, the motion was defeated.

It was moved by Council Member Hafner and seconded by Council Member Hagness to change line three under section 2. Second Stage of Appeal from one week to four-teen days. Carried 11 votes affirmative.

It was then moved by Council Member Klave and seconded by Council Member Beyer that on page 9 the third paragraph be amended to extend the requirement for second stage panel to make a final decision from three working days to seven calendar days. Carried 11 votes affirmative.

It was noted that the council would discuss the incentives at the city council meeting on Monday, July 7.

It was moved by Council Member Hagness and seconded by Council Member Beyer to

grant preliminary approval of the Voluntary Acquisition Program of Residences as amended. Carried 11 votes affirmative.

ADJOURN

It was moved by Council Member Beyer and seconded by Council Member Glasheim that we do now adjourn. Carried 11 votes affirmative.

Respectfully submitted,

John M. Schmisek
City Auditor

Approved:

Patricia A. Owens, Mayor